

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

This matter is before the Court on the Report and Recommendation (“R & R”) of the Magistrate Judge (Dkt. No. 47) recommending that this Court grant Defendants’ motion to dismiss and deny Plaintiff’s motion for summary judgment. For the reasons set forth below, the Court hereby adopts the R&R dismisses the action.

On November 3, 2014, Plaintiff filed a *pro se* complaint seeking relief pursuant to 42 U.S.C. § 1983. He alleges that Defendants violated his Eighth Amendment right to be free of cruel and unusual punishment by failing to provide him with adequate and appropriate medical care and treatment for shoulder pain. (Dkt. No. 1). On April 2, 2015, Defendants filed a motion to dismiss (Dkt. No. 22), and on August 13, 2015, the Magistrate Judge issued an R & R recommending that the Court dismiss this action with prejudice for lack of prosecution. (Dkt. No. 33). Plaintiff subsequently filed objections to the R & R (Dkt. Nos. 36, 37), and a motion for summary judgment (Dkt. No. 35).

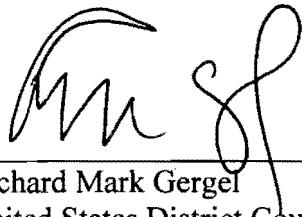
The Magistrate Judge entered a text order vacating the initial R & R on September 8, 2015 (Dkt No. 39). On January 26, 2016, the Magistrate Judge issued another R & R, this time recommending that the Court grant Defendants' motion to dismiss and deny Plaintiff's motion for summary judgment. (Dkt. No. 47). Plaintiff has not filed any objections to the R & R.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

Where the plaintiff fails to file any specific objections, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation,” *see Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted), and this Court is not required to give any explanation for adopting the recommendation of the Magistrate Judge, *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983).

The Court has reviewed the R & R, the full record in this matter, and the relevant legal authorities. Viewing all of the evidence in the light most favorable to Plaintiff, there is nothing to create a genuine issue of material fact as to his § 1983 claims against any of the three defendants. Plaintiff’s complaint contains no allegations against Nurses Mauney and Holcomb, and the record bears nothing that would suggest that Dr. Byrne acted with deliberate indifference to Plaintiff’s medical needs. The Court finds that the Magistrate Judge ably and properly summarized the factual and legal issues and appropriately recommended that Defendants’ motion to dismiss should be **GRANTED** (Dkt. No. 22) and Plaintiff’s motion for summary judgment should be **DENIED** (Dkt. No. 35). Therefore, the Court hereby **ADOPTS** the R & R as the order of this Court.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

March 1, 2016
Charleston, South Carolina